

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re

Perpetua-Burr Oak Holdings of Illinois, L.L.C.  
and Perpetua, Inc.,

Debtor.

Chapter 11

Case No. 09-34022  
(Jointly Administered)

Honorable Pamela S. Hollis

Hearing Date: August 16, 2011  
Hearing Time: 10:00 a.m.  
Objection Deadline: August 12, 2011

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **August 16, 2011 at 10:00 a.m.** or as soon thereafter as counsel may be heard, we will appear before the Honorable Pamela S. Hollis, or any other judge sitting in her stead, in Courtroom 644 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and present the attached **FIRST AND FINAL FEE APPLICATION OF DEVELOPMENT SPECIALISTS, INC. AS FINANCIAL ADVISOR FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, FOR ALLOWANCE AND PAYMENT OF COMPENSATION AND REIMBURSEMENT OF EXPENSES.**

Dated: July 22, 2011

PERKINS COIE LLP

By: s/ Daniel A. Zazove  
Daniel A. Zazove (ARDC 3104117)

*Submitted on behalf of Development  
Specialists, Inc.*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
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In re

PERPETUA- BURR OAK HOLDINGS OF  
ILLINOIS, L.L.C., *et al.*,

Debtor.

Chapter 11

Case No. 09-34022  
Jointly Administered

**FIRST AND FINAL FEE APPLICATION OF DEVELOPMENT SPECIALISTS, INC.  
AS FINANCIAL ADVISOR FOR THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS, FOR ALLOWANCE AND PAYMENT OF COMPENSATION  
AND REIMBURSEMENT OF EXPENSES AND FOR RELATED RELIEF**

- A. Name of Applicant: Development Specialists, Inc.
- B. Authorized to Provide Professional Services to: The Official Committee of Unsecured Creditors.
- C. Date of Retention: April 22, 2010.
- D. Period for Which Compensation and Reimbursement Is Sought: April 14, 2010 to June 16, 2011.
- E. Amount of Compensation Sought as Actual, Reasonable and Necessary: \$126,788.50.
- F. Amount of Expense Reimbursement Sought as Actual, Reasonable and Necessary: \$1,617.51.
- G. This is a: First and Final fee application.
- H. The Dates and Amounts of Previous Compensation Paid are: None

Respectfully submitted,

By: s/ Patrick J. O'Malley

Patrick J. O'Malley  
Development Specialists, Inc.  
70 West Madison Street, Suite 2300  
Chicago, IL 60602-4250  
312.263-4141

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re

PERPETUA- BURR OAK HOLDINGS OF  
ILLINOIS, L.L.C., *et al.*,

Debtor.

Chapter 11

Case No. 09-34022  
Jointly Administered

**FIRST AND FINAL FEE APPLICATION OF PATRICK J. O'MALLEY AND THE  
PROFESSIONALS OF DEVELOPMENT SPECIALISTS, INC. FOR ALLOWANCE  
AND PAYMENT OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Patrick J. O'Malley and professionals of Development Specialists, Inc. (collectively "DSI"), as Financial Advisor for the Official Committee of Unsecured Creditors (the "Committee") pursuant to sections 327, 328, 330, and 506(c) of the Bankruptcy Code, Rule 2016(a) of the Federal Rules of Bankruptcy Procedure and Rule 5082-1 of the Local Rules for the United States Bankruptcy Court for the Northern District of Illinois, submit this First and Final application for: (a) the allowance and payment of compensation in the total amount of \$126,788.50 for 353.00 hours of service rendered to the Committee between the dates of April 14, 2010 and June 16, 2011; and (b) an award for reimbursement of expenses advanced by DSI on behalf of the Committee totaling \$1,617.51 between the dates of April 14, 2010 and June 16, 2011.

**CASE STATUS**

1. On June 16, 2011 the Debtors' Modified Second Amended Joint Plan of Liquidation, confirmed by order of the Bankruptcy Court entered May 26, 2011, became effective. The Plan, supported by the Cook County Sherriff, represents the culmination of a cooperative effort between the Debtors and the Creditors Committee to utilize scant resources to maintain Burr Oak Cemetery as a viable, operating entity under the control of an independent

Trustee, herself a former U.S. Attorney, Judge of the Circuit Court and member of the Governor's commission on cemetery reform; achieve some level of modest distribution for all lineal relatives of decedents; maintain a victims fund for those who are able to prove actual harm and loss, and fund the restoration of the cemetery as a fitting, final resting place for those interred there. This is a remarkable achievement in light of the circumstances existing when the case was filed on September 14, 2009. Then Burr Oak Cemetery was a crime scene, its employees arrested and jailed, its owners and management subject to multiple tort and class action lawsuits pending in the Cook County Circuit and United States District Court. The lurid details of its ruinous condition was portrayed on the nightly news and all manner of rumor and speculation about just what went on there raised the anxiety level of the family and friends to a fevered pitch.

### **BACKGROUND**

2. On September 14, 2009 (the "Petition Date"), the Debtors each filed a voluntary petition in this Court under Chapter 11 of Title 11 of the United States Code 11 U.S.C. §101-1532, as amended (the "Bankruptcy Code"), thereby commencing the above-captioned cases (the "Cases"). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The United States Trustee appointed a creditors' committee (the "Committee") in the Cases on November 19, 2009. The committee members all have family buried at Burr Oak Cemetery and personally experienced the fear, anxiety and loathing as the Cases played out as a public spectacle.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334. Venue is proper pursuant to 28 U.S.C. §§1408 and 1409. This matter is a core proceeding pursuant to 18 U.S.C. §157(b)(2).

5. DSI's retention as Financial Advisor for the Committee in the Chapter 11 bankruptcy cases was approved by an order of this Court dated April 22, 2010.

6. Pursuant to the Compensation Order, DSI has filed monthly statements of services and out of pocket expenses for each month from April 14, 2010 through June 16, 2011. No objection has been filed to the allowance of any of DSI's monthly statements of services and pursuant to the Order. The Debtors have paid DSI 80% of the fees and 100% of the out-of-pocket costs for monthly statements filed through December 31, 2010 aggregating \$74,475.96. DSI anticipates receiving the balance due under the Compensation Order of \$28,572.35 prior to the hearing on DSI's First and Final Fee Application.

7. DSI's Statements of Services rendered and Paid Expenses Incurred for the period of April 14, 2010 through June 16, 2011 are attached to this application as Exhibits A through N (the "Invoices"). No Statement of Services was rendered for the month of April 2011.

8. All of the services reflected on the attached Invoices pertain to the Cases and were rendered at the request of the Committee in the exercise of their rights, powers and duties under 11 U.S.C. §1103.

9. By this fee application, DSI seeks compensation for its services and reimbursement for its expenses in connection with the Perpetua bankruptcy and its related adversary proceedings. These services have been categorized into six categories: (1) fee application/client billing; (2) attend court hearings/review pleadings; (3) business analysis; (4)

plan of reorganization/disclosure statement; (5) sale of assets; and (6) creditors/creditors' committee contact.

**I. NATURE AND EXTENT OF THE SERVICES RENDERED AND COSTS INCURRED**

**A. Fee Application/Client Billing**

10. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 3.30 hours having a value of \$1,369.00 to fee application/client billing. This time was spent on the retention matters and preparation of the monthly statements.

| <b>Hours and Compensation Requested for Fee Application/Client Billing</b> |              |             |                   |
|--|--------------|-------------|-------------------|
| <b>PROFESSIONAL</b>  | <b>HOURS</b> | <b>RATE</b> | <b>FEE</b>        |
| Patrick J. O'Malley (2010)   | 1.40         | \$525.00    | <b>\$735.00</b>   |
| Patrick J. O'Malley (2011)   | .40          | \$535.00    | <b>\$214.00</b>   |
| Jill E. Costie (2010)  | 1.50         | \$280.00    | <b>\$420.00</b>   |
| <b>TOTAL</b>   | <b>3.30</b>  |             | <b>\$1,369.00</b> |

**B. Attend Court Hearing/Review Pleadings**

11. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 3.40 hours having a value of \$1,800.00 to attend court hearing/review pleadings.

| <b>C. Hours and Compensation Requested for Attend Court Hearing/Review Pleadings</b> |              |             |                   |
|--|--------------|-------------|-------------------|
| <b>PROFESSIONAL</b>  | <b>HOURS</b> | <b>RATE</b> | <b>FEE</b>        |
| Patrick J. O'Malley (2010)   | 1.90         | \$525.00    | <b>\$997.50</b>   |
| Patrick J. O'Malley (2011)   | 1.50         | \$535.00    | <b>\$802.50</b>   |
| <b>TOTAL</b>   | <b>3.40</b>  |             | <b>\$1,800.00</b> |

**D. Business Analysis**

12. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 254.30 hours having a value of \$84,455.00 to business analysis. This time was spent

analyzing the current condition of the cemetery, developing alternatives for the continuing operation of the cemetery, preparing financial projections under different operating scenarios and discussions regarding the contract operation of the cemetery.

| <b>Hours and Compensation Requested for Business Analysis</b> |               |             |                    |
|---|---------------|-------------|--------------------|
| <b>PROFESSIONAL</b>   | <b>HOURS</b>  | <b>RATE</b> | <b>FEE</b>         |
| Patrick J. O'Malley (2010)                                    | 35.40         | \$525.00    | <b>\$18,585.00</b> |
| Patrick J. O'Malley (2011)                                    | 20.60         | \$535.00    | <b>\$11,021.00</b> |
| Jill E. Costie (2010)   | 154.20        | \$280.00    | <b>\$43,176.00</b> |
| Jill E. Costie (2011)   | 24.20         | \$285.00    | <b>\$6,897.00</b>  |
| M. Christopher Adams (2010)                                   | 19.90         | \$240.00    | <b>\$4,776.00</b>  |
| <b>TOTAL</b>  | <b>254.30</b> |             | <b>\$84,455.00</b> |

#### **E. Plan of Reorganization/Disclosure Statement**

13. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 17.30 hours having a value of \$7,945.50 to the plan of reorganization/disclosure statement. This time was spent reviewing drafts of the plan of reorganization and disclosure statement, providing supporting financial information and preparing for possible testimony at the confirmation hearing including submitting a declaration.

| <b>F. Hours and Compensation Requested for Plan of Reorganization/Disclosure Statement</b> |              |             |                   |
|--|--------------|-------------|-------------------|
| <b>PROFESSIONAL</b>  | <b>HOURS</b> | <b>RATE</b> | <b>FEE</b>        |
| Patrick J. O'Malley (2010)   | 3.30         | \$525.00    | <b>\$1,732.50</b> |
| Patrick J. O'Malley (2011)   | 8.90         | \$535.00    | <b>\$4,761.50</b> |
| Jill E. Costie (2010)  | .40          | \$280.00    | <b>\$112.00</b>   |
| Jill E. Costie (2011)  | 4.70         | \$285.00    | <b>\$1,339.50</b> |
| <b>TOTAL</b>   | <b>17.30</b> |             | <b>\$7,945.50</b> |



### G. Sale of Assets

14. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 7.50 hours having a value of \$3,937.50 to sale of assets. This time was spent attending the auction of the cemeteries and investigating status of contingencies included in the winning bid for the Burr Oak Cemetery.

| Hours and Compensation Requested for Sale of Assets |             |          |                   |
|---|-------------|----------|-------------------|
| PROFESSIONAL  | HOURS       | RATE     | FEE               |
| Patrick J. O'Malley (2010)                          | 7.50        | \$525.00 | <b>\$3,937.50</b> |
| <b>TOTAL</b>  | <b>7.50</b> |          | <b>\$3,937.50</b> |

### H. Creditors/Creditors' Committee Contact

15. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI devoted 67.20 hours having a value of \$27,281.50 to creditors/creditors' committee contact. This time was spent preparing for and attending periodic meetings with the Creditors' Committee.

| Hours and Compensation Requested for Creditors/Creditors' Committee Contact |              |          |                    |
|---|--------------|----------|--------------------|
| PROFESSIONAL  | HOURS        | RATE     | FEE                |
| Patrick J. O'Malley (2010)  | 23.20        | \$525.00 | <b>\$12,180.00</b> |
| Patrick J. O'Malley (2011)  | 10.60        | \$535.00 | <b>\$5,671.00</b>  |
| Jill E. Costie (2010)   | 17.70        | \$280.00 | <b>\$4,956.00</b>  |
| Jill E. Costie (2011)   | 15.70        | \$285.00 | <b>\$4,474.50</b>  |
| <b>TOTAL</b>  | <b>67.20</b> |          | <b>\$27,281.50</b> |

### I. Costs and Expenses

16. During the period between April 14, 2010 and June 16, 2011, inclusive, DSI expended reimbursable costs on behalf of the Debtor relating to the bankruptcy aggregating \$1,617.51, as set forth on the attached Exhibits A through N. The costs include photocopies and

printing, long-distance telephone charges, telephone conference calls, and transportation expenses.

17. DSI does not charge for staff overtime or incoming telefax.

## **II. BIOGRAPHICAL INFORMATION**

18. The biographical profiles of Patrick J. O'Malley, Jill E. Costie and Christopher Adams are included with this application as Exhibits O through Q respectively.

## **III. REASONABLENESS OF THE COMPENSATION REQUESTED**

19. DSI submits that an allowance of compensation and reimbursement of expenses as requested is reasonable and appropriate. As part of its application, DSI requests the entry of an Order directing payment of the fees and expenses awarded by the Court.

## **IV. COMPLIANCE WITH SECTION 504**

20. Other than as provided for and allowed by 11 U.S.C. § 504, there is no agreement between DSI and any other firm, person or entity for sharing or division of any compensation paid or payable to DSI.

## **V. NOTICE**

21. Notice of this Application has been given to: (a) the Office of the United States Trustee; (b) counsel to the Debtor; (c) counsel to the Debtors' post-petition lenders; and (d) parties requesting notice in the Cases. In light of the creditor activity within these cases and the existence of the Committee the committee submits that no further notice is required. Based on the extent of the notice already provided and the lack of objection to its monthly statements, DSI respectfully requests that additional notice of the hearing on this Application be excused for good cause shown pursuant to Fed. R. Bankr. P. 2006(a)(6), 2002(i) and 9007.

WHEREFORE, DSI requests the entry of an order, substantially in the form attached hereto that:

- a. allows DSI \$126,788.50 in final compensation for services rendered during the Application Period of April 14, 2010 through June 16, 2011;
- b. allows DSI \$1,617.51 in expense reimbursement for the Application period of April 14, 2010 through June 16, 2011;
- c. directs the Debtors to pay DSI \$128,406.01 for fees and expenses for services rendered during April 14, 2010 through June 16, 2011, net of any amounts previously paid;
- d. provides DSI with such additional relief as may be appropriate under the circumstances.

Respectfully submitted,

By: s/ Patrick J. O'Malley

Patrick J. O'Malley  
Development Specialists, Inc.  
70 West Madison Street, Suite 2300  
Chicago, IL 60602-4250  
312.263-4141

Dated: July 15, 2011

**CERTIFICATE OF SERVICE**

Daniel A. Zazove, an attorney, hereby certifies that on July 22, 2011 he caused a copy of the First and Final Fee Application of Development Specialists, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Allowance and Payment of Compensation and Reimbursement of Expenses to be served on the parties listed on the attached Service List as so indicated.

/s/ Daniel Zazove

PERKINS COIE LLP

Daniel A. Zazove (ARDC #3104117)

131 S. Dearborn Street - Suite 1700

Chicago, Illinois 60603-5559

Telephone: (312) 324-8400

Facsimile: (312) 324-9400

**SERVICE LIST – PERPETUA BURR-OAK**

|   | Email Address  | Method of Delivery         |
|---|--|----------------------------|
| William T. Neary<br>Office of the U.S. Trustee<br>219 S. Dearborn St., Room 873<br>Chicago, IL 60604-1702   | USTPRegion11.ES.ECF@usdoj.gov  | Court ECF notice           |
| <i>Attorneys for Debtors</i><br>Kimberly A Bacher<br>Robert M Fishman<br>Richard A. Saldinger<br>Brian L Shaw<br>Shaw Gussis Fishman Glantz<br>Wolfson Towbin<br>321 N. Clark<br>Suite 800<br>Chicago, IL 60654 | kbacher@shawgussis.com<br>rfishman@shawgussis.com<br>rsaldinger@shawgussis.com<br>bshaw100@shawgussis.com  | Court ECF notice/<br>Email |
| <i>Parties requesting electronic mail</i><br>Deidre Baumann<br>Shelby H. Kanarish<br>Steven J. Plotkin<br>Darrell Phillips<br>Bobbie Sanders  | <a href="mailto:baumannesq@worldnet.att.net">baumannesq@worldnet.att.net</a><br><a href="mailto:Shelby@walnerlaw.com">Shelby@walnerlaw.com</a><br><a href="mailto:sjplaw@sbcglobal.net">sjplaw@sbcglobal.net</a><br><a href="mailto:revdrdlp@comcast.net">revdrdlp@comcast.net</a><br><a href="mailto:rsanderson1954@sbcglobal.net">rsanderson1954@sbcglobal.net</a><br><a href="mailto:mbryant@a-cubedllc.com">mbryant@a-cubedllc.com</a><br><a href="mailto:tsanders1913@yahoo.com">tsanders1913@yahoo.com</a> | Electronic mail            |
|   |  |                            |

|   | Email Address | Method of Delivery |
|---|---------------|--------------------|
| <i>All other parties requesting ECF notice</i><br><br>Sisavanh B. Baker<br>Aaron R. Bilton<br>Michael F. Bonamarte<br>Carl B. Boyd<br>Patience R. Clark<br>Nathan F. Coco<br>Joseph R. Curcio<br>Yao O'Dinizulu<br>Faith Dolgin<br>Jamie G. Goldstein<br>Kenneth T. Goldstein<br>Blake W. Horwitz<br>Gregory J. Jordan<br>Dan Klein<br>Robert D. Kreisman<br>Clinton A. Krislov<br>Vincent E. Lazar<br>Anthony J. Masciopinto<br>Scott C. Polman<br>Elliot Pollock<br>Joseph A. Power<br>Aron D. Robinson<br>Zachary K. Sims<br>Thomas A. Jr. Zimmerman |               | Court ECF notice   |
|   |               |                    |